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GULF COAST ECOSYSTEM RESTORATION COUNCIL

Docket No.: 108302016-1111-06

Amendment to Initial Funded Priorities List

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice of Amendment to Initial Funded Priorities List.

SUMMARY: On August 24, 2016, the Gulf Coast Ecosystem Restoration Council (Council) amended its Initial Funded Priorities List (FPL) to approve implementation funding for the Apalachicola Bay Oyster Restoration project (Project) in Florida. The Council approved \$3,978,000 in implementation funding for this Project. The Council also approved reallocating \$702,000 from project planning to project implementation, after any remaining planning expenses have been met. The total amount available for implementation of the Project is therefore \$4,680,000. These funds will be used to restore approximately 251 acres of oyster beds, which is an increase from the 219 acres originally proposed in the FPL.

To comply with the National Environmental Policy Act (NEPA), the Council has adopted an existing Environmental Assessment (EA) that addresses the activities in the Project. In so doing, the Council is expediting project implementation, reducing planning costs and increasing the ecological benefits of this Project by using the savings in planning funds to expand the Project by approximately 32 acres.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to john.ettinger@restorethegulf.gov or contact John Ettinger at (504) 444-3522.

SUPPLEMENTARY INFORMATION:

I. Background

The *Deepwater Horizon* oil spill led to passage of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act), which dedicates 80 percent of all Clean Water Act administrative and civil penalties related to the oil spill to the Gulf Coast Restoration Trust Fund (Trust Fund). The RESTORE Act also created the Council, an independent Federal entity comprised of the five Gulf Coast states and six Federal agencies. Among other responsibilities, the Council administers a portion of the Trust Fund known as the Council-Selected Restoration Component in order to “undertake projects and programs, using the best available science, which would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.” Additional information on the Council can be found here: <https://www.restorethegulf.gov>.

On December 9, 2015, the Council approved the FPL, which includes projects and programs approved for funding under the Council-Selected Restoration Component, along with activities that the Council identified as priorities for potential future funding. Activities approved for funding in the FPL are included in “Category 1”. The priorities for potential future funding are in “Category 2.” The Council approved approximately \$156.6 million in FPL Category 1 restoration and planning activities, and prioritized twelve FPL Category 2 activities for possible funding in the future, subject to environmental compliance and further Council and public review. The Council included planning activities for the Apalachicola Project in Category 1 and implementation activities for the Project in Category 2 of the FPL.

The Council reserved approximately \$26.6 million for implementing priority activities in the future. These reserved funds may be used to support some, all or none of the activities included in Category 2 of the FPL and/or to support other activities not currently under consideration by the Council. As appropriate, the Council intends to review each activity in Category 2 in order to determine whether to: (1) move the activity to Category 1 and approve it for funding, (2) remove it from Category 2 and any further consideration, or (3) continue to include it in Category 2. A Council decision to amend the FPL to move an activity from Category 2 into Category 1 must be approved by a Council vote after consideration of public and Tribal comments.

II. Environmental Compliance

Prior to approving an activity for funding in FPL Category 1, the Council must comply with NEPA and other Federal environmental laws. At the time of approval of the FPL, the Council had not complied with NEPA and other applicable laws with respect to implementation of the Project. The Council did, however, recognize the potential ecological value of the Project, based on review conducted as part of the FPL process. For this reason, the Council approved \$702,000 in planning funds for this Project, a portion of which would be used to complete any needed environmental compliance activities. As noted above, the Council placed the implementation portion of this Project into FPL Category 2, pending the outcome of this environmental compliance work and further Council review. The estimated cost of the Project's implementation component was listed at \$3,978,000, which would fund the restoration of approximately 219 acres of oyster beds in Apalachicola Bay. Inclusion of the Project's

implementation activities into Category 2 did not in any way commit the Council to subsequently approve those implementation activities for funding.

Since approval of the FPL, Florida has collaborated with the U.S. Army Corps of Engineers (USACE) and identified an existing EA that could be used to support Council approval of implementation funding for this Project. This EA was prepared by the USACE in association with a Clean Water Act Section 404 and Section 10 of the Rivers and Harbors Act programmatic general permit (PGP). This PGP authorizes the Florida Department of Agricultural and Consumer Services to conduct aquaculture of live rock and marine bivalves in navigable waters of the U.S. within the jurisdiction of the State of Florida, provided that such activities comply with the terms and conditions of the PGP.

The Council has reviewed this EA and associated documents, including an August 13, 2015, letter from the National Oceanic and Atmospheric Administration regarding compliance with the Endangered Species Act (ESA). In addition to ESA, the EA and associated PGP address compliance with other Federal environmental laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the National Historic Preservation Act and more.

On June 7, 2016, the Council issued a Federal Register notice announcing its proposal to amend the FPL, adopt the aforementioned EA, and approve implementation funding for this Project. The Council received no public comments on this proposal.

Based on this review, the Council adopted this EA to support the approval of implementation funds for the Project, based on the condition that the Project must be

implemented in accordance with the terms and conditions of the PGP and the design criteria set forth in the associated ESA programmatic consultation. Strict adherence with the terms and conditions of the PGP is necessary to ensure compliance ESA and other applicable laws. On August 24, 2016, the Council issued a Finding of No Significant Impact (FONSI) for this action, concurrent with its approval of the FPL amendment. This EA, FONSI, and the associated ESA documentation can be found here: <https://www.restorethegulf.gov/funded-priorities-list>. (See *Apalachicola Bay Oyster Restoration Project – Implementation*.)

Additional information on the Project is available in an activity-specific appendix to the FPL, which can be found here: <https://www.restorethegulf.gov>.

Justin R. Ehrenwerth

Executive Director, Gulf Coast Ecosystem Restoration Council

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